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Senator John Cauthorn to File Legislation Clarifying Funding for Conceal-and-Carry Program

Senator John Cauthorn, R-Mexico, has drafted legislation to clarify the funding mechanism in Missouri's conceal-and-carry program adopted by the legislature last year that will allow for the issuance of permits this year.

"The governor vetoed the permitting legislation last July," Cauthorn said. "And while the General Assembly overturned the veto in September, the law was soon challenged in a state circuit court on the misinformed grounds that the legislation violated the state's constitution."

The court ruled in favor of the plaintiffs and Missouri's attorney general appealed the ruling to the state's Supreme Court. Today, February 26, 2004, the high court rejected the lower court's finding that the law contradicts a clause in the constitution speaking to the bearing of arms. Specifically, Article I, Section 23, which reads: "*That the right of every citizen to keep and bear arms in defense of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons.*"

“The Supreme Court rightly noted that ‘shall not justify’ does not mean ‘shall prohibit,’” Cauthorn said. “If this were the only grounds for the suit, the conceal-and-carry permit program would be up and running in short order.”

But the Supreme Court held that the conceal-carry law violated the state’s “Hancock” amendment to the constitution. Plaintiffs argued that the concealed-carry act does not expressly provide “full state financing” to fund the activities and costs borne by sheriffs and county governments necessary for the issuance of the concealed-carry permits, constituting an “un-funded mandate.”

Plaintiffs then offered apparently persuasive evidence that counties would be subjected to “un-funded mandates” by using expenditure calculations worked up for four counties. To this end the Supreme Court ruled the conceal-carry program could not be administered in these counties (even though the law provides for the collection of fees to offset costs).

As for Missouri’s other 110 counties, the Supreme Court ordered the circuit court to take up the issue of the law’s applicability in the rest of the state.

Cauthorn’s legislation, to be filed on March 1, adds a single sentence expanding uses for money deposited in the County Sheriff’s Revolving Fund. Current law stipulates the fund be used for training and equipment purchases. Cauthorn’s provision expressly allows use of money from the fund to pay for the cost of processing conceal-and-carry permits. This inclusion summarily eliminates launching “un-funded mandate” litigation.

“Our country was founded on a number of clear and reasonable principles – the right to bear arms being one of those,” Cauthorn said. “Missouri’s conceal-and-carry law was drafted and adopted in a manner consistent with these principles and my provision makes bullet proof – and lawyer proof – a responsible permitting program for carrying concealed weapons.”

Text of Legislation Sponsored by Sen. Cauthorn

4807S.01I

AN ACT

To repeal section 50.535, RSMo, and to enact in lieu thereof one new section relating to the county sheriff's revolving fund.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Section 50.535, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 50.535, to read as follows:

- 50.535. 1. Notwithstanding the provisions of sections 50.525 to 50.745, the fee collected pursuant to subsections 10 and 11 of section 571.101, RSMo, shall be deposited by the county treasurer into a separate interest-bearing fund to be known as the "County Sheriff's Revolving Fund" to be expended at the direction of the county or city sheriff or his or her designee as provided in this section.
2. No prior approval of the expenditures from this fund shall be required by the governing body of the county or city not within a county, nor shall any prior audit or encumbrance of the fund be required before any expenditure is made by the sheriff from this fund. This fund shall only be used by law enforcement agencies for the purchase of equipment and to provide training; and any reasonable expenses relating to accepting and processing the application required pursuant to section 571.101, RSMo. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in the said fund and the balance shall be kept in said fund to accumulate from year to year. This fund may be audited by the state auditor's office or the appropriate auditing agency.
3. If pursuant to subsection 12 of section 571.101, RSMo, the sheriff of a county of the first classification designates one or more chiefs of police of any town, city, or municipality within such county to accept and process applications for certificates of qualification to obtain a concealed carry endorsement, then that sheriff shall reimburse such chiefs of police, out of the moneys deposited into this fund, for any reasonable expenses related to accepting and processing such applications.

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